

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

PAUL BISHOP,

Plaintiff,

V.

UNITED STATES DEPARTMENT OF
AGRICULTURE,

Defendant.

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:
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: Civ. Action No.: 17-3372-BRM-DEA

ORDER

THIS MATTER (the “2017 Litigation”) is before the Court on the filing of *pro se* Plaintiff Paul Bishop’s Complaint (ECF No. 1) brought pursuant to Title VII of the Civil Rights Act of 1964 (“Title VII”), 43 U.S.C. 2000e, *et seq.*, asserting a retaliation claim against Defendant United States Department of Agriculture (“USDA”). Bishop was previously granted *in forma pauperis* status (ECF No. 2) and therefore, pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A, the Court is required to dismiss, at any time, any claims that are frivolous, malicious, fail to state a claim for relief, or seek damages from a defendant who is immune. For the reasons set forth below, Bishop’s Complaint is **DISMISSED WITH PREJUDICE**.

In June 2015, Bishop filed a complaint against the USDA as Case Number 15-3658 (the “2015 Litigation”). Following a motion to dismiss, on July 11, 2017, the 2015 Litigation was dismissed and closed (ECF Nos. 33, 34, 40) and Bishop appealed this Court’s decision (ECF No. 35). That appeal is pending.

The Complaint in the 2017 Litigation is identical to the complaint filed in the 2015 Litigation and was filed while the 2015 Litigation was pending. Bishop's filing of a second, identical complaint is frivolous and appropriate for dismissal. Moreover, the 2015 Litigation was

dismissed for failure to state a claim, and so the Court will likewise dismiss this matter.

Because Bishop prosecuted the 2015 Litigation and appealed this Court's decision in that case, dismissal with prejudice is appropriate here. There is nothing Bishop can do to amend his complaint in the 2017 Litigation or meaningfully correct the error leading to this dismissal that he could not have done in the identical 2015 Litigation. *Borelli v. City of Reading*, 532 F.2d 950, 951-52. Accordingly,

IT IS on this 12th day of December 2017,

ORDERED that Bishop's Complaint is **DISMISSED WITH PREJUDICE** in its entirety pursuant to 28 U.S.C. § 1915(e)(2)(B); and it is further

ORDERED that this case be marked **CLOSED**; and it is finally

ORDERED that the Clerk of the Court shall send a copy of this Order to Plaintiff by regular U.S. mail.

/s/ *Brian R. Martinotti*
HON. BRIAN R. MARTINOTTI
UNITED STATES DISTRICT JUDGE